Make the proportionality/imminence debate a two-way street. Whichever debater presents the better sociological analysis of domestic violence should win the round. If I win a theory of domestic violence that entails it is proportional to an imminent threat of deadly force, then I win the round. This is true for two reasons:

1. It’s the only way I can turn the NC. Without giving me ground to contest what constitutes domestic violence, the contention is basically “Deadly force does kill, and domestic violence doesn’t kill, so they’re not equivalent.” Only by presenting and comparing rival conceptions of domestic violence can we actually resolve the proportionality debate, because the proportionality of domestic violence to deadly force follows tautologically from which theoretical framework is chosen.
2. His arguments make the unwarranted assumption that domestic violence is not deadly. If I can justify a conception of domestic violence that denies this assumption, then the link chain of the NC is severed, making these arguments terminal defense on his case. Given that he’s making the NC artificially sufficient, terminal defense is sufficient to win me the round.

Also, don’t let him say that these are topicality issues that should have been in the AC, because defining and qualitatively analyzing domestic violence are two different things. My authors spend a page defining domestic violence and 300 more pages explaining the merits of understanding it as a slow homicidal process. And I’m challenging the assumptions they’re making about domestic violence rather than defining domestic violence as something totally different – so long as this theoretical framework is consistent with my AC (which it is!), there’s no ground shift occurring.

I contend that domestic violence is best understood as a slow homicidal process. **Ogle and Jacobs[[1]](#footnote-1)** clarify:

This new theoretical framework posits that battering is **initially** a form of discrimination where **the batterer seeks to control the victim and make** retaliation or **escape** too **costly. However, over time this effort moves from moderate control**, using threats and minor violence and then contrition, **to a need for complete and absolute control of the** relationship and the **victim.** Such complete control is unlikely to be accomplished with threats, intimidation, and contrition when the victim no longer believes in those. **At that point, the battering cycle changes** from three phases to two phases**; tension building becomes shorter and acute violence more frequent and intense.** The victim will recognize this change and begin to utilize her personal coping resources to end the increasing violence. The batterer will interpret these efforts by the victim as a loss of complete control and will again increase the violence to make his point and regain control. We should also see efforts by the batterer to block coping resources of the victim so that they cannot threaten his control again. // **Eventually, the victim will realize she needs** outside **assistance** in order **to end the violence and protect herself. She will then contact social helping resources** (e.g., police, shelter, crisis center, counselor, doctor, etc.) to obtain assistance for ending the violence. This involvement of outside resources increases the risk for the victim because it increases the risk to the batterer. The chances of being identified and sanctioned for the battering have increased. If those social helping resources fail to completely and successfully end the violence, the victim faces increased violence and isolation. **The batterer will interpret these efforts** by the victim **as an even greater risk to his complete control, prompting an even more aggressive response to shut off access** to those social helping resources and to regain control of the victim and the relationship. **This represents an escalation process where the victim becomes increasingly isolated in the escalating violence and the batterer more powerful each time an effort is made to end the battering and fails.** // This perspective represents an interaction process whereby the victim’s efforts to obtain assistance to end the violence result in an escalation of the violence by the batterer and efforts to block coping mechanisms so that they do not threaten his control again. **In this escalation process, there** are no nonconfrontational periods for the victim. There **is no return to normal relations;** threats, intimidation, and violence become the primary method of control and the primary characteristic of interaction in the relationship. **The victim lives in constant fear with high negative affect, high arousal, simply waiting for the next explosion of violence. The victim would reasonably come to view her situation as constantly lethal.** Consequently, the choice of lethal self-defense anywhere in this cycle could be interpreted as legally justified.

There are two reasons to prefer this interpretation of domestic violence.

1. My analysis takes into account the entirety of a battering relationship, rather than just focusing on the final event. **Ogle and Jacobs 2**:

**When a battering relationship results in a homicide, attention is naturally focused on the final murderous encounter, but that final act is the last, not the only, homicidal encounter in a battering relationship.** This chapter is designed to explain a new social interaction perspective for understanding the battering relationship as a long-term, ongoing homicidal process that is very likely to end in the death of one of the parties. // We propose that **to understand the battering relationship and its escalation to homicide, we must examine the entire history and context of the relationship. Focusing only on a final homicidal encounter disadvantages the victim because it ignores the batterer’s initiation of the acute violence and his escalation of the violence in order to maintain complete control of both the relationship and the victim. Thus, it unfairly portrays the context of the battering victim’s survival efforts.** To more fairly and completely explore that context, we seek to understand the cultural, social, structural, and situational forces, as well as the interaction process, that assist the batterer in maintaining the battering relationship and result in the escalation to homicide. // As noted in the previous chapter, we borrow concepts from three established theoretical perspectives to develop this new social interaction theory on battering. First, while accepting the potential variability in Walker’s (1979) Cycle of Battering Theory, we utilize this cyclical pattern as the macro-level framework in which to set or explain the interaction process of the battering relationship. We assume the initial existence of all three phases of this battering cycle in one form or another: (1) tension building phase; (2) acute battering phase; and (3) contrition phase. We also accept Walker’s (1979, 1984) contention that the cycle is repetitive and that the phases change over time as the cycle is repeated. However, we respectfully disregard Walker’s (1984) theory of Battered Woman Syndrome which attributes the actions of battered women to the psychological malady of learned helplessness. // We utilize interaction process theory to explain the internal, micro-level interplay between the parties of the battering relationship. This interaction between batterer and victim is examined as a long-term interaction containing multiple incidents over time. We use some of the concepts from the Ogle, Maier-Katkin, and Bernard (1995) Homicidal Behavior Among Women Theory to explain the context in which the interaction occurs. This context consists of the social, cultural, situational, and structural variables that affect the interaction sequences and provide the support necessary to maintain the battering interaction as well as to create the basis for escalation by the batterer. // We believe that **understanding battering requires a new perspective viewing battering as an interaction process heavily influenced by social realities. The new perspective requires that we understand the battering relationship as a homicidal process rather than focusing only on the isolated final violent encounter, as self-defense has been interpreted traditionally. It requires that we define battering relationships as long-term interactions with a sociologically identifiable pattern to which the realistic, normal victim responds reasonably to avoid death or great bodily harm.**

This means that my interpretation is most consistent with domestic violence as “repeated,” rather than an isolated event, so his claims that domestic violence isn’t that bad are false because they rely on the assumption of singular events, but the summation of those events is what makes domestic violence severe.

This also takes out the NC, because they only view the encounter in light of the event of killing and claim it’s not proportional because there wasn’t a deadly threat, but that’s nonsensical because the years of abuse are what constitute the deadly threat.

1. His interpretation rests on faulty assumptions about the empirical consequences of domestic violence. Historically, our efforts to understand battering have rested on two misconceptions. **Ogle and Jacobs 3**:

**First, there is the misconception that battering is an infrequent phenomenon in our society. We now know that this is incorrect. Much of the battering research indicates that, at the very least, one out of every four women will experience battering in her lifetime** (Bureau of Justice Statistics 1993, 1998). Battering is common in our society, and this knowledge lends credence to the feminist argument that battering is less about psychological pathology of a few people and more about sexual inequity and a society whose relationship model is based on male domination and female subordination. // **Second, there is the misconception that battering is primarily about abuse and control, not killing**, even though killing may occur occasionally. **This assumption is untenable because the reality is that battering does result in many killings each year. About 500 to 600 batterers are killed each year by their victims and between 2,000 and 4,000 battering victims are killed each year by their abusers** (FBI 1993). **In other words, battering is often a homicidal process regardless of the batterer’s initial intentions. More disturbing yet, in the cases where batterers kill victims, about 50% to 75% involve what experts call separation attacks** (Bachman 1994; Browne 1987; Copelon 1994; Felder and Victor 1996; Gillespie 1989; Kahn 1984; Klein 1996; Mahoney 1991), **when the victim is trying to leave or has just left the batterer. Another large proportion of killings occurs at the climax of a battering incident or when the victim attempts to utilize other social resources to end the battering** (Bachman 1994; Browne 1987; Copelon 1994; Downs 1996; Felder and Victor 1996; Kahn 1984; Klein 1996; Mahoney 1991). **In essence, the victim’s chances of being killed increase significantly each time she attempts to do what we socially expect and require her to do to end the battering: leave or utilize social resources that often fail to accommodate the lethality of her situation.** In light of these realities, we offer a different approach to understanding the imminence of threat, lethality, and reasonableness of battering victim response in these relationships.

Also, means-based standards like proportionality care about agents’ intentions, not the consequences that occur. This means that if the victim’s intention is to avoid a threat to their life, which they reasonably perceive, then they are justified in using deadly force. In that domestic violence is both empirically deadly and creates the perception in the victim’s mind that they are likely to be killed, they are acting proportionally.

This interpretation also demonstrates the absurdity of applying traditionally understood interpretations of self-defense law to the uncommon situation of domestic violence, because those constraints are predicated on standards of societal expectation. **Ogle and Jacobs 4** explain how typical self-defense law does not apply to this situation:

**In a typical self-defense scenario, we are accustomed to thinking of homicide as a single incident resulting in death. This single incident generally involves two physically equal combatants, with relatively superficial knowledge of each other, in a short-term confrontation in which both parties see a foreseeable end.** This is because laws were created by men to serve the interests of men. Sometimes referred to as the barroom brawl scenario, self-defense law was intended to give men the right to protect themselves lethally if necessary in a fight. **Battering, however, is a long-term, ongoing confrontation between parties who are not physical equals, wherein the parties have intimate knowledge of each other, and with no foreseeable end to the interaction. In fact, battering has most often been described as a repetitive cycle punctuated by intermittent periods of extreme violence** (Angel 1996; Browne 1987; Browning and Dutton 1986; Blackman 1986; Douglas 1991; Downs 1996; Ewing 1987; Finkel 1991; Frieze and Browne 1989; Stark 1995; Steinmetz 1977; Walker 1979). **However, in the battering cycle, what occurs between these intermittent periods of violence does not represent a return to so-called normalcy but rather the beginning of tension development, degradation, and other abuse leading to the next incident of extreme violence** (Browne 1987; Browning and Dutton 1986; Campbell 1992; Douglas 1991; Downs 1996; Ewing 1987; Frieze and Browne 1989; Kahn 1984; Prince and Arias 1994). **To deny the existence of this ongoing violent interaction process in battering relationships is to ignore the social reality in which battering victims function and make decisions.**

Thus, traditional constraints on self-defense fail to reconcile themselves with a correct interpretation of domestic violence, so arguments about a legal basis for proportionality go away too.

Also, deadly force doesn’t always kill, it just tends to kill. For example, a disease that kills 30% of those it afflicts is considered deadly, even though 70% survive. In that death isn’t a guaranteed impact, the NC fails to demonstrate a categorical obligation to negate, and therefore does not deny permissibility in some circumstances where deadly force only causes serious bodily harm.

1. Ogle, Robbin; and Susan Jacobs. *Self-Defense and Battered Women Who Kill: A New Framework*. Westport: Greenwood Publishing Group, 2002. Questia. [↑](#footnote-ref-1)